

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TERRENCE SHANAHAN, individually and on
behalf of all others similarly situated;

Plaintiff,

vs.

UPPER MIDWEST REALTY, INC., a
Minneapolis Corporation; and JOHN DOE 1,

Defendants.

8:19CV359

ORDER

On January 20, 2020, Plaintiff filed a motion for leave to file an amended complaint. ([Filing No. 21](#).) The motion indicated that Defendants did “not take a position on this motion for leave to amend.” ([Filing No. 21 at CM/ECF p.2](#).) However, on January 21, 2020, Plaintiff filed a Notice indicating that Defendants did, in fact, oppose the motion. ([Filing No. 22](#).) To date, Defendants have not responded to Plaintiff’s motion.

Federal Rule of Civil Procedure 15 provides that courts should “freely give leave” to amend a pleading “when justice so requires.” [Fed. R. Civ. P. 15](#). Nevertheless, a party does not have an absolute right to amend and “denial of leave to amend may be justified by undue delay, bad faith on the part of the moving party, futility of the amendment or unfair prejudice to the opposing party.” [Amrine v. Brooks, 522 F.3d 823, 833 \(8th Cir. 2008\)](#) (quotation omitted). Whether to grant a motion for leave to amend is within the sound discretion of the district court. [Popoalii v. Corr. Med. Servs., 512 F.3d 488, 497 \(8th Cir. 2008\)](#).

For good cause shown, Plaintiff will be allowed to file an amended complaint. This case is in its early stages. It was filed on August 21, 2019. ([Filing No. 1](#).) The deadline for completing written discovery is not until July 31, 2020 and the deposition deadline is not until September 15, 2020. ([Filing No. 20](#).) The pretrial conference and trial have not been scheduled. There is no indication Defendants would be prejudiced through amendment and they have not responded to the motion.

Accordingly,

IT IS ORDERED that Plaintiff's Motion for Leave to File First Amended Complaint ([Filing No. 21](#)) is granted. Plaintiff shall file his First Amended Complaint by February 11, 2020.

Dated this 7th day of February, 2020.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge